

Notice of Proposed Changes in Regulations of the Fish and Game Commission

(Continuation of Register 2005, No. 7-Z, and Commission Meeting of February 4, 2005)

(Note: The Commission is exercising its powers under Section 202 of the Fish and Game Code as the following changes to the proposed regulations may not be available to the public for the full public comment period prior to the adoption. See the Updated Informative Digest.)

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections 200, 202, 205, 220, 240, 2084 and 7891, of the Fish and Game Code and to implement, interpret or make specific Sections 200, 203, 205 and 2084, of said Code, proposes to amend Section 27.80, Title 14, California Code of Regulations to conform ocean sport fishing regulations for salmon within state waters to those agreed upon by the Pacific Fishery Management Council (PFMC).

Updated Informative Digest/Policy Statement Overview

The Pacific Fishery Management Council (PFMC) annually reviews the status of west coast salmon populations. As part of that process, it recommends ocean fishing regulations aimed at meeting biological and fishery allocation goals specified in law or established in the Salmon Fishery Management Plan.

The PFMC is expected to adopt regulation recommendations, similar to recent years, for the recreational ocean salmon fisheries in Federal waters (3 to 200 miles offshore) off the states of Washington, Oregon, and California for 2005. The various alternatives the PFMC will examine in the process of adopting the management options on March 11, 2005, for public review may include:

1. the minimum size of salmon that may be retained;
2. the number of rods anglers may use (e.g., one, two, or unlimited);
3. the type of bait and/or terminal gear that may be used (e.g., amount of weight, hook type, and type of bait or no bait);
4. the number of salmon that may be retained per angler-day or period of days;
5. the definition of catch limits to allow for combined boat limits versus individual angler limits;
6. the allowable fishing dates and areas; and
7. the overall number of salmon that may be harvested, by species and area.

The final regulation recommendations will be made by the PFMC on April 8, 2005. Upon approval of the PFMC's management recommendations by the Secretary of Commerce, the State must move in a timely manner to conform its ocean sport fishing regulations for salmon in State waters (0 to 3 miles offshore) to those agreed upon by the PFMC; otherwise preemption of State regulatory authority by the Secretary of Commerce may occur. **The federal regulations are expected to be implemented effective May 1, 2005.**

The Initial Statement of Reasons reflected the range of possible management measures that will be considered for 2005. At the PFMC's March 7-11, 2005 meeting, four options were developed that will consider specific changes from current regulations. The following options are due to

very low ocean abundance forecast of Klamath River fall chinook and different catch allocations for Klamath Basin in-river fisheries.

Under all four options, the season is similar to current regulations except as follows: In all options for 2006, the opening dates between Horse Mountain and Point Arena will be February 18 and below Point Arena will be April 1.

Option 1

Seasons: For north of Horse Mountain and Humboldt Bay (Klamath Management Zone), the season length is decreased 47 days due to a later season opener and a mid season closure for most of July and early August. The area between Horse Mountain and Point Arena (Fort Bragg) has the same season length. The area between Point Arena and Pigeon Point (San Francisco) has 14 more days due to an earlier season opener. The area between Pigeon Point and the U.S./ Mexico border (Monterey) has 7 less days due to an earlier season closure.

Option 2

Seasons: For north of Horse Mountain and Humboldt Bay (Klamath Management Zone), the season length is decreased 47 days due to a later season opener and a mid season closure for most of July and early August. The area between Horse Mountain and Point Arena (Fort Bragg) has 10 less days due to two closures in July. The area between Point Arena and Pigeon Point (San Francisco) has 14 more days due to an earlier season opener. The area between Pigeon Point and the U.S./ Mexico border (Monterey) has 7 less days due to an earlier season closure.

Option 3

Seasons: For north of Horse Mountain and Humboldt Bay (Klamath Management Zone), the season length is decreased 56 days due to a later season opener and closures in late June, most of July and early August. The area between Horse Mountain and Point Arena (Fort Bragg) has 18 less days due to a mid season closure in late July and early August. The area between Point Arena and Pigeon Point (San Francisco) has 3 more days due to an earlier season opener and an 11 day July closure. The area between Pigeon Point and the U.S./ Mexico border (Monterey) has 18 less days due to an earlier season and early July closures.

Option 4

Seasons: For north of Horse Mountain and Humboldt Bay (Klamath Management Zone), the season length is decreased 34 days due to a later season opener and a mid season closure for most of July. The area between Horse Mountain and Point Arena (Fort Bragg) has the same season length. The area between Point Arena and Pigeon Point (San Francisco) has 14 more days due to an earlier season opener. The area between Pigeon Point and the U.S./ Mexico border (Monterey) has 7 less days due to an earlier season closure.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Secretary of State Auditorium, 1500 11th Street, Sacramento, California on Thursday, May 5, 2004, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted at least ten days before the May meeting, at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@dfg.ca.gov, but must be received no later than May 5, 2005, at the hearing in Sacramento, CA. All written comments must include the true name and mailing address of the commentor.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Robert R. Treanor,

Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to Jon Fischer or Jon Snellstrom at the preceding address or phone number. Ms. Patricia Wolf, Department of Fish and Game, phone (562) 342-7108 has been designated to respond to questions on the substance of the proposed regulations. Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.dfg.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. Regulations close to the status quo are expected to be adopted.
- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None
- (c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:
None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None
- (f) Programs mandated on Local Agencies or School Districts: None
- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None

(h) Effect on Housing Costs: None

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business.

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

FISH AND GAME COMMISSION

Dated: April 5, 2005

Jon Fischer
Assistant Executive Director